

REMARKS

I. General

The issues outstanding in the instant application are as follows:

- Claims 1-5 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Huang, U.S. Pat. No. 6,318,763 (hereinafter *Huang*) in view of Salyers, U.S. Pat. No. 5,709,413 (hereinafter *Salyers*); and
- The restriction requirement remains improperly final.

Applicant again respectfully traverses these requirements and rejections and requests reconsideration for the reasons presented below. Claims 1-6 are currently pending in this application, with claim 6 withdrawn from consideration.

II. Rejections Under 35 U.S.C. § 103

Claims 1-5 stand rejected under 35 U.S.C. § 103(a) as unpatentable over *Huang* in view of *Salyers*. Applicant respectfully traverses these rejections for the following reasons.

A. The combination fails to teach all elements of the claims.

Each of independent claims 1, 2 and 4 recites “said torque communication portion of said collar staked in such a manner that said inner periphery extending through said torque communication portion communicates with said knurling in a relatively non-rotational manner” and “said ferrule support portion of said collar staked in such a manner that said inner periphery extending through said ferrule support portion engages said axial stop ring in an axial movement limiting manner.”

In the Amendment of June 11, 2008, Applicant pointed-out that cited Figure 4 of *Huang*, and the text of *Huang*, fails to show, teach or suggest the inner periphery of the locking sleeve contacting or otherwise engaging the indicated stop ring. The present Office Action responds to this reasoning by citing Prior Art Figure 6 of *Huang* as teaching the above recited elements of the present claims. However, Applicant respectfully asserts that by indicating Figure 6 as being “Prior Art” *Huang* implicitly teaches away from use of *Huang*’s torque limiting feature, teeth 100 and notches 140, with any axial stop ring shown in Prior Art Figure 6. Regardless, *Huang* fails to teach or suggest the use of an axial stop ring as arguably shown

in Figure 6 together with and a torque limitation structure (such as teeth 100 and notches 140), whereas the present independent claims recite both a torque communication portion communicating with knurling in a relatively non-rotational manner and a ferrule support portion of a collar engaging an axial stop ring. Further, by teaching supplantation of the structure shown in Prior Art Figure 6 with the structure shown in Figures 1-4, *Huang* teaches away from the use of an axial stop ring and torque limitation together.

Additionally, the Office Action states that Figure 6 of *Huang* shows “the torque communication portion of the collar staked in such a manner that the inner periphery extending through the torque communication portion communicates in a relatively non-rotational manner.” However, *Huang* clearly states in the paragraph beginning on line 13 of column 2, that the connecting pipe (stem) in Prior Art Figure 6 rotates relative to the collar.

For at least the above reasons *Huang* fails to teach or suggest “said torque communication portion of said collar staked in such a manner that said inner periphery extending through said torque communication portion communicates with said knurling in a relatively non-rotational manner” and “said ferrule support portion of said collar staked in such a manner that said inner periphery extending through said ferrule support portion engages said axial stop ring in an axial movement limiting manner,” as recited in independent claims 1, 2 and 4. *Salyers* is not relied on as teaching these elements. Thus, Applicant respectfully asserts that independent claims 1, 2 and 4 are patentable over the 35 U.S.C. § 103 rejections of record.

Claim 3 depends directly from independent claim 2 and claim 5 depends directly from independent claim 4. Thus, each of claims 3 and 5 inherit all elements of respective claims 2 and 4. Therefore, for at least the reasons advanced above in addressing the rejections of claims 2 and 4, each of claims 3 and 5 set forth features and elements not recited by the combination of *Huang* and *Salyers*. Hence, Applicant respectfully asserts that claims 3 and 5 are also patentable over the 35 U.S.C. § 103 rejections of record.

B. The Office Action does not provide the requisite motivation.

The Office Action admits that *Huang* does not teach “the collar support portion including knurling”. The Office Action attempts to cure this deficiency by introducing *Salyers*, which the Office Action alleges to teach substituting knurling 724 for splines 801. The motivation for making the modification was presented as follows:

It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute splines with knurling, so that the tubing is effectively gripped, as taught by *Salyers*.

It is well settled that the fact that references can be combined or modified is not sufficient to establish a prima facie case of obviousness, M.P.E.P. § 2143.01. In this case, the proposed replacement of the teeth of *Huang* with the knurling of *Salyers* would be a complete supplantation of the teachings of *Huang* and thus impermissibly change the principle of operation of *Huang*, see M.P.E.P. § 2143.01(VI)

Further, as pointed out by the Office Action *Salyers* teaches use of knurling 724 to facilitate gripping of tube 64. However, the splines of *Huang* and the knurling of the present claims are employed to communicate with a torque communication portion of a collar, or the like. Nothing in *Salyers* would suggest using knurling to grip a collar. The Office Action states: "knurling is being taught by *Salyers* and not the location of the knurling." However, the Office Action is relying on *Salyers* to completely replace both the teeth 100 and the notches 140 of *Huang* with knurling and the only motivation provided, "so that the tubing is effectively gripped," is not applicable to *Huang* or the present invention. *Huang* does not use its teeth and notches to grip a tube, nor does the present invention use its knurling to grip a tube. Thus, the advance motivation fails.

Furthermore, *Salyers* teaches away from the combination. As pointed out by the Office Action, *Salyers* teaches the use of knurling to grip a tube, whereas in the present invention the knurling is an interface between the stem and the collar. The barbs disclosed and claimed in the present application, and gripping flanges 13 of *Huang*, are used to grip a hose (tube).

Thus, there is no motivation to modify *Huang* using the teachings of *Salyers* in the manner proposed by the Office Action. Also, no "apparent reason to combine the know elements in the fashion claimed" has been presented as required by *KSR Int'l. Co. v. Teleflex, Inc.* (See M.P.E.P. §2143.) Resultantly, the rejection of claims 1-5 should be withdrawn for failure to provide the necessary motivation to combine *Huang* and *Salyers*.

III. Restriction Requirement

Applicant again wishes to point out, the Examiner has already examined all of claims 1-6 and opined as to their patentability in an Office Action dated July 6, 2004. The

amendments made to claim 6 in Applicant's September 16, 2005 Amendment includes limitations speaking to a collar, similar to limitations already present in the other independent claims. Therefore, Applicant again respectfully asserts that there is no serious burden on the Examiner to examine all of the claims, as he has already searched and examined all of the claims and their various limitations. As previously noted M.P.E.P. § 803 requires: "If the search and examination of all the claims in an application can be made without serious burden, the examiner must examine them on the merits, even though they include claims to independent or distinct inventions."

Additionally, M.P.E.P. § 811 states:

the examiner should make a proper requirement as early as possible in the prosecution, in the first action if possible, otherwise, as soon as the need for a proper requirement develops. Before making a restriction requirement after the first action on the merits, the examiner will consider whether there will be a serious burden if restriction is not required.

Hence, Applicant respectfully asserts that since, as discussed above, it would not present a serious burden for the Examiner to examine all of the pending claims it was improper for the Examiner to present this restriction so late in the examination of this application.

In light of each of the foregoing defects in the restriction requirements, Applicant once again respectfully asserts that the restriction requirement should be withdrawn and that claim 6 should be examined on the merits.

VI. Conclusion

For at least the reasons given above, Applicant submits that the pending claims distinguish over the prior art of record under 35 U.S.C. § 103. Hence, Applicant submits that this application should be found in condition for allowance. Also, Applicant submits that the restriction requirement should be withdrawn and hence claim 6 should be examined on the merits.

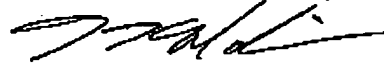
The fees necessary for the accompanying Petition for a two-month extension of time are dealt with in the Petition itself. Applicant believes no further fee is due with this response. However, if any additional fee is due, please charge Deposit Account No. 07-0475, from which the undersigned is authorized to draw.

Applicant respectfully requests that the Examiner call the below listed attorney if the Examiner believes that the attorney can be helpful in resolving any remaining issues or can otherwise be helpful in expediting prosecution of the present application.

Dated: December 1, 2008

JLM
Denver, Colorado

Respectfully submitted,



Jerry L. Mahurin
Attorney for the Applicant
Reg. No. 34,661
The Gates Corporation
IP Law Department 10-A3
1551 Wewatta Street
Denver, CO 80202
(303) 744-5796